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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,575	11/09/2001	Hideji Kawasaki	011480	5837

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EXAMINER

PHAM, TUAN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/986,575	Applicant(s) KAWASAKI ET AL.	
	Examiner TUAN A PHAM	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/26/03, 02/06/04, 6/7/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Maloney (U.S. Patent No.: 6,453,169).

Regarding claim 1, Malony teaches a foldable portable communication terminal device (see figure 1) comprising a casing having a main body case and a lid case openably connected thereto (see figure 1, main body 12, flip 14, hing2 16) and having a power source circuit for supplying power to a device body (see figure 6, power supply 60, col.4, ln.66-67), an on/off circuit for turning on/off power supply from the power source circuit to the device body (see figure 10, power switch 112, col.5, ln.1-6), and a

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power supply control circuit for controlling operation of the on/off circuit (see figure 6, control circuit 50, col.5, ln.1-6), the casing having one of manual key so arranged on a position as to be depressed with the casing closed (see figure 4, power key 40, col.4, ln.33-45), the power supply control circuit turning off the on/off circuit when the one of manual key are held depressed for at least the predetermined period of time (see col.5, ln.24-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hama (Pub. No.: U.S 2002/0045467) in view of Peyer et al. (U.S. Patent No.: 5,953,413, hereinafter, "Peyer").

Regarding claim 5, Hama teaches a foldable portable communication terminal device (see figure 1C) comprising a casing having a main body case and a lid case openably connected thereto (see figure 1C, main body 101, lid 101A), the casing having one or a plurality of manual keys so arranged on a position as to be manipulated when the casing is in its opened state or when the casing is in its closed state (see figure 1B, key 113, col.5, [0115]), the one or the plurality of manual keys each being changed over between different functions depending on whether the casing is closed (see figure 1B, key 113, col.5, [0115]).

It should be noticed that Hama fails to teach the plurality of manual keys each being changed over between different functions depending on whether the casing is opened. However, Peyer teaches such features (see col.4, ln.64-67, col.5, ln.1-34) for a purpose viewing the menu.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the plurality of manual keys each being changed over between different functions depending on whether the casing is opened, as taught by Peyer, into view of Hama in order to save space for a small communication device.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hama (Pub. No.: U.S 2002/0045467) in view of Peyer et al. (U.S. Patent No.: 5,953,413, hereinafter, "Peyer") as applied to claim 5 above, and further in view of Mitchell et al. (U.S. Patent No.: 5,966,671, hereinafter, "Mitchell").

Regarding claim 6, Hama and Peyer, in combination, fails teach a foldable portable communication terminal device the two manual keys of the plurality of manual keys each perform a function of a volume up key or a volume down key for adjusting volume of incoming speech with the casing opened. However, Mitchell teaches such features (see figure 1, key 124, 126, 128, col.9, ln.30-44) for a purpose of controlling the volume of communication device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use a foldable portable communication terminal device the two manual keys of the plurality of manual keys each perform a function of a volume up key or a volume down key for adjusting volume of incoming speech with the casing opened, as taught by Hama and Peyer, into view of Mitchell in order to save space for a small communication device.

Allowable Subject Matter

6. Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Kubo et al. (U.S. Patent No. 6,748,243), Lundqvist (U.S. Patent No. 6,424,844), Nakamura (U.S. Patent No. 6,269,256), and Lee (Pub. No.: U.S 2002/0094826) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s). These references are also concerned for supporting the system and method of foldable portable telephone set with automatic off-hook function.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (703) 305-4987. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (703) 305-4708 and

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist, tel. No. 703-305-4700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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August 20, 2004
Examiner

Tuan Pham



HUYEN LE
PRIMARY EXAMINER